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NOTE

PARIS FOR EMBASSY, USRO, CINCEUR, THURSTON AND WEST
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Following text prepared in Department of note to Soviets on which comments addresses (particularly Bonn, Berlin and Moscow) invited. Circumstances under which note may be delivered and timing still under consideration. USRO instruction will follow when appropriate. London and Paris should provide texts to Foreign Offices and invite comment. Texts already provided UK and French Embassies here.

BEGIN TEXT

The Government of the United States of America refers to its note of February 4, 1959 regarding the unwarranted and inadmissible refusal by Soviet authorities of normal transit by a United States convoy through the Marienborn autobahn checkpoint. Note has been taken of the fact that this convoy has since been permitted to proceed through the Marienborn checkpoint without inspection.

However, Soviet official correspondence, statements by Soviet officials

Drafted by: *Dohm*
EUR:GER:GPA:JHM:Farland:jk 2/7/59Telegraphic transmission and
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L/EUR - *By* (in substance)
*L/CB***SECRET****Classification**UNLESS "UNCLASSIFIED"
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[and Soviet press treatment related to the incident indicate that the action of the authorities at the Marienborn checkpoint was designed as an attempt to assert an alleged QUOTE right UNQUOTE of inspection and control.

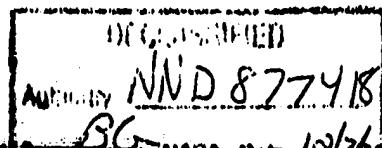
Although working arrangements have been agreed establishing procedures to be followed at the checkpoints, the United States Government has never agreed to any inspection of its military traffic. In this connection the United States Government desires to recall to the Government of the USSR the clear basis upon which the United States Government's right of unrestricted access to Berlin rests. This right has been reinforced by long-standing four power agreements and understandings and by nearly fourteen years of practice. The United States has not admitted, and will not admit the claimed QUOTE right UNQUOTE of inspection persistently advanced by officials of the Group of Soviet Forces in Germany, first in 1948 and again in the period since November 1956.

By virtue of its participation as one of the principal powers in the military defeat of German forces and conquest of the territory of the former German Reich, the United States acquired the right to share in the occupation of Germany. On June 14, 1945 President Truman proposed and on June 18, 1945 Marshal Stalin agreed to the arrangement for the movement of United States Forces into Berlin including provision of free access by air, road and rail from Frankfurt and Bremen to Berlin for United States forces. An agreement on routes arrived at June 29, 1945 between Marshal Zhukov and General Clay provided further for unrestricted movement of United States Forces agreed routes to and from Berlin.

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Not until March 30, 1948 did Soviet Forces attempt to assert a QUOTE right UNQUOTE to inspect Allied military vehicles enroute ^{to} ~~and~~ from Berlin. A letter of that date from the Soviet Deputy Military Governor, General Dratvin, informed the US Military Government of supplementary provisions regarding communications between the Soviet and US Zones of Occupation, ~~regarding~~ requiring accompanying documents for military freight shipments and inspection of baggage except personal belongings of US personnel. US Mil Gov't Chief of Staff General Gailey rejected these and subsequent Soviet claims.

Agreement was reached between the United States, British, French and Soviet Governments at New York May 4, 1949, to lift both the Blockade of Berlin imposed by the Soviet Government and Allied counter measures. The agreement provided in part:

QUOTE

1. All the restrictions imposed since March 1, 1948, by the Government of the USSR on communications, transportation and trade between Berlin and the Western Zones of Germany and between the Eastern Zone and the Western Zones will be removed on May 12, 1949UNQUOTE

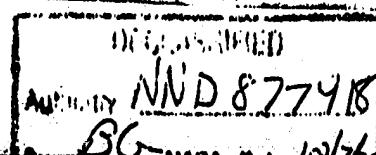
This decision was confirmed and expanded by agreement of the Council of Foreign Ministers meeting at Paris May 23, 1949.

Article 1 of the New York Agreement was implemented by Order No. 56 of the Soviet Military Government and Commander-in-Chief of the Soviet occupation forces in Germany, dated May 9, 1949, which provided that ^{Giving other things} among other things:

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QUOTE

1. The regulations which were in effect prior to 1 March 1948 concerning communication, traffic and trade between Berlin and the Western Zones and between the Eastern Zone and the Western Zones of Germany are to be re-established. UNQUOTE

It is clear that the New York Agreement, implemented by Soviet Order No. 56, specified reciprocal withdrawal of restrictions to reestablish the status as it existed on March 1, 1948. The right of free access to Berlin of United States, British and French forces was again acknowledged and confirmed. Free access means the right to pass freely without interference. The concept of an QUOTE inspection UNQUOTE of United States military vehicles is inconsistent with the right of free access. It is clear therefore, that the right of the United States to free access to Berlin includes the right to pass freely without any QUOTE inspection UNQUOTE by Soviet or other authorities.

The United States Government calls upon the Soviet Government to affirm that it is prepared to comply fully with the agreements into which it has entered with regard to the right of unrestricted access to Berlin of the military personnel, supplies and equipment of the Four Powers. It expects that the Soviet Government will take measures to insure that the Soviet personnel concerned conduct themselves in conformity with these agreements.

END TEXT

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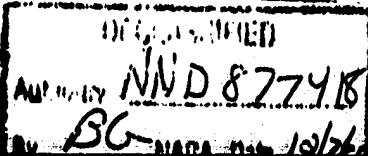
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